

MINUTES

INDIANA RESPIRATORY CARE COMMITTEE

JULY 23, 2010

I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Mr. Konkle called the meeting to order at 10:00 a.m. in Professional Licensing Agency Conference Room W064, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana, and declared a quorum in accordance with Indiana Code § 15-5-1.1-6(c).

Committee Members Present:

Thomas Konkle, R.C.P., Chairman
Sally Park-Teelon, R.C.P., Member
Gary L. Smith, R.C.P., Member

Committee Members Absent:

Margaret Sullivan, Consumer Member

State Officials Present:

Cindy Vaught, Board Director, Professional Licensing Agency
Heather Hollcraft, Assistant Board Director, Professional Licensing Agency
Heather Young, Case Manager, Professional Licensing Agency
Elizabeth Brown, Deputy Attorney General, Office of the Attorney General

II. ADOPTION OF THE AGENDA

A motion was made and seconded to adopt the agenda.

PARK-TEELON/SMITH
Motion carried 3-0-0

III. ADOPTION OF THE MINUTES FROM THE APRIL 23, 2010 MEETING OF THE COMMITTEE

A motion was made and seconded to adopt the minutes from the April 23, 2010 meeting.

KONKLE/PARK-TEELON
Motion carried 3-0-0

IV. APPEARANCES

A. APPLICATION

1. Christina Marie Bailey

Ms. Bailey appeared before the Committee, as requested, regarding her application for licensure by examination. Ms. Bailey is a 2010 graduate of Ivy Tech Community college and passed the NBRC examination on May 21, 2010. On her application he answered "yes" to question 5B which asks "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" She explained that in 2004 she was charged with driving under the influence. Ms. Bailey's driver's license was suspended for one (1) year and she was required to attend M.A.D.D. meetings and complete community service. Ms. Bailey will be working at Community North Hospital in the NICU. Ms. Bailey previously worked at Reed Hospital in Richmond, Indiana on a student permit.

Committee action: A motion was made and seconded to grant Ms. Bailey a respiratory care practitioner license.

PARK-TEELON/SMITH

Motion carried 3-0-0

2. Caleb John Currier

Mr. Currier appeared before the Committee, as requested, regarding his application for licensure by examination. Mr. Currier is a 2010 graduate of Ivy Tech Community College and passed the NBRC n May 20, 2010. On his application he answered "yes" to question 4 that asks, "Are you now being, or have you ever been treated for drug or alcohol abuse?" and question 5B that asks "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" He explained that in 2002 he was arrested for possession of marijuana. He pled guilty to a felony charge that was changed to a Class A misdemeanor upon successful completion of 18 months of probation, drug counseling and obtaining his GED. Mr. Currier is employed at University Hospital.

Committee Action: A motion was made and seconded to grant Mr. Currier a respiratory care practitioner license.

SMITH/PARK-TEELON

Motion carried 3-0-0

3. Christopher Wayne Crump

Mr. Crump appeared before the Committee, as requested, regarding his application for licensure by endorsement. Mr. Crump is a 2009 graduate of Delta College and passed the NBRC examination on November 23, 2009. He is currently licensed in the state of Michigan. On his application he answered "yes" to question 5B that asks "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" He explained that in 2000 he was arrested for misdemeanor assault. Mr. Crump spent 40 of 60 days in jail where he was released on good behavior on a work release crew. Mr. Crump was also required to complete anger management courses.

Committee Action: A motion was made and seconded to grant Mr. Crump a respiratory care practitioner license.

PARK-TEELON/SMITH
Motion carried 3-0-0

4. Michelle Ann Fry

Ms. Fry did not appear before the Committee, as requested, regarding her application for licensure by examination.

Committee action: A motion was made and seconded to reschedule Ms. Fry's personal appearance for the October 22, 2010 meeting.

PARK-TEELON/KONKLE
Motion carried 3-0-0

5. Brittney Danielle McIntire

Ms. McIntire appeared before the Committee, as requested, regarding her application for licensure by examination. Ms. McIntire is 2010 graduate of Clarian Health and Affiliated Universities and passed the NBRC on May 18, 2010. Ms. McIntire answered "yes" to question 5B that asks "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" In 2008, the Applicant obtained a false state identification card from the Indiana Bureau of Motor Vehicles. She did this by using a friend's name and documents to obtain an identification card with her picture on it. She obtained the false ID card for the purpose of getting into bars since she was under the legal drinking age at the time. The Bureau of Motor Vehicles discovered the issuance of the false identification card through use of facial recognition software and

commenced an administrative proceeding against the Applicant. The Applicant's Indiana driver's license is suspended until October 25, 2010, as a penalty for obtaining the false identification card. The Applicant's attitude during the personal appearance did not indicate that she understood the seriousness of obtaining a false state identification card. In response to questions from the Committee the Applicant stated that she had not familiarized herself with the statutes and rules regulating the practice of respiratory care in Indiana. Ms. McIntire is currently employed at Riley Hospital for Children. She previously worked at St. Vincent and Clarian West on her student permits. .

Committee Action: A motion was made and seconded to grant Ms. McIntire a probationary respiratory care license with following terms and conditions:

1. The Applicant's license as a respiratory care practitioner is placed on **INDEFINITE PROBATION**.
2. The Applicant shall familiarize herself with the statutes and rules regulating the practice of respiratory care in the State of Indiana and shall give a presentation on this subject to a class of respiratory care students at the Clarian Health and Affiliated Universities.
3. The Applicant shall provide the Committee with written documentation from Clarian Health and Affiliated Universities that the required presentation was completed.
4. The Applicant shall keep the Committee apprised of the following information and update it as necessary:
 - a. current home address, mailing address, and telephone number;
 - b. place of employment, employment telephone number, and name of supervisor;
 - c. occupation title and work schedule, including the number of hours worked per week.
5. The Applicant may request a hearing to withdraw the probation after she has completed the required presentation.
6. The Applicant shall remain on probation until such time as the Committee withdraws the probation.
7. The failure of the Applicant to comply with the requirements of probation may subject her to a show cause hearing before the Committee and the imposition of further sanctions.

KONKLE/PARK-TEELON
Motion carried 3-0-0

6.

6. Zachary Paul Peele

Mr. Peele appeared before the Committee, as requested, regarding his application for licensure by endorsement. Mr. Peele is a 2010 graduate of Ivy Tech and passed the NBRC on May 14, 2010. Mr. Peele answered "yes" to question 4 that asks, "Are you now being, or have you ever been treated for drug or alcohol abuse?" and question 5B that asks "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" He explained that in 2002 he was charged with sexual misconduct. He was required to attend alcohol classes, complete 120 hours of community service and seek counseling with a therapist. Mr. Peele has completed all court requirements with the felonies being dropped to misdemeanors. He has been working at Floyd Memorial Hospital and states they are fully aware of his past.

Committee Action: A motion was made and seconded to grant Mr. Peele a respiratory care practitioner license.

SMITH/PARK-TEELON
Motion carried 3-0-0

7. Christopher Porter

Mr. Porter appeared before the Committee, as requested, regarding his application for licensure by examination. Mr. Porter is a 2010 graduate of Clarian Health and Affiliates and passed the NBRC examination on June 11, 2010. On his application he answered "yes" to question 5B that asks "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" He explained that in 2007 he was given a ticket for minor consumption in Monroe County. Mr. Porter was required to complete alcohol classes and pay fines to be placed on the deferral program. Mr. Porter has accepted a full time position at University Hospital where he worked on his student permit.

Committee action: A motion was made and seconded to grant Mr. Porter a respiratory care practitioner license.

SMITH/PARK-TEELON
Motion carried 3-0-0

8. Lauren Mae Reed

Ms. Reed appeared before the Committee, as requested, regarding her application for licensure by examination. Ms. Reed is a 2010 graduate from Clarian Health and Affiliates and passed the NBRC examination

on May 18, 2010. On her application she answered "yes" to question 5B that asks "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" She explained that in 2006 she was at a party where two individuals handed her two cups. Campus police saw her and asked whose they were. When she told them they were not hers, they requested her to submit to a breathalyzer but did not cite her. She was later charged with minor consumption and was required to complete alcohol classes. Ms. Reed currently works for Riley Hospital for Children.

Committee action: A motion was made and seconded to grant Ms. Reed a respiratory care practitioner license.

PARK-TEELON/SMITH
Motion carried 3-0-0

9. Michael James Rupska

Mr. Rupska appeared before the Committee, as requested, regarding his application for licensure by examination. Mr. Rupska is a 2010 graduate of Ivy Tech and passed the NBRC examination on May 17, 2010. On his application he answered "yes" to question 5B that asks "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" He explained that in 2007 after a night out with friends, he was charged with driving under the influence of alcohol. Mr. Rupska has completed all court requirements. Mr. Rupska is employed at Union Hospital in Terre Haute, Indiana.

Committee action: A motion was made and seconded to grant Mr. Rupska a respiratory care practitioner license.

PARK-TEELON/SMITH
Motion carried 3-0-0

10. Sherri D. Wood

Ms. Wood appeared before the Committee, as requested, regarding her application for licensure by examination. Ms. Wood is a 2010 graduate from Ivy Tech and passed the NBRC examination on June 16, 2010. On her application she answered "yes" to question 5A that asks "Have you ever been convicted of, pled guilty or nolo contendere to a violation of any Federal, State, or local law relating to the use, manufacturing, distribution or dispensing of controlled substances or drug addiction?" and question 5B that asks "Have you ever been convicted of, pled guilty or nolo contendere to any offense,

misdemeanor or felony in any state?" She stated that she answered 5A in error but regarding 5B, she explained that in 1999 in Morgan County she was convicted of Class A Misdemeanor of attempting to obtain a controlled substance. In 2002 she was convicted of a Class A misdemeanor for possession of stolen property and had to go to addiction treatment counseling. Ms. Wood currently employed at Wishard Hospital.

Committee action: A motion was made and seconded to grant Ms. Wood a respiratory care practitioner license.

KONKLE/PARK-TEELON
Motion carried 3-0-0

11. Brenda Cornett

Ms. Cornett appeared before the Committee, as requested, regarding her application for licensure by examination. Ms. Cornett is a 2010 graduate from Ivy Tech College and passed the NBRC examination on June 30, 2010. On her application she answered "yes" to question 5B that asks "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" She explained that in October 2005 she wrecked her vehicle while trying to avoid a deer in the road. She was carrying newly purchased alcohol in the vehicle, which broke open during the accident. She was initially charged with driving under the influence but upon blowing a .00 into the breathalyzer, the charge was dropped to wreck less driving. She was required to complete non-reporting probation. Ms. Cornett has been a CNA for fourteen (14) years. She is currently employed at La Porte Hospital.

Committee action: A motion was made and seconded to grant Ms. Cornett a respiratory care practitioner license.

SMITH/PARK-TEELON
Motion carried 3-0-0

B. PROBATION

There was no probation appearances scheduled.

C. RENEWAL

There was no renewal appearances scheduled.

V. ADMINISTRATIVE HEARINGS

A. Elizabeth Ann Morris, R.C.P., License No. 30007589A

Administrative Cause No. 2010 RCC 0001

Re: Petition for Withdrawal of Probation

Parties and Counsel Present:

Petitioner was present without counsel

Michael Minglin, Deputy Attorney General for the State of Indiana

Carrie Roemer, Court Reporter

Participating Committee Members:

Mr. Konkle (Hearing Officer)

Ms. Park-Teelon

Mr. Smith

Case Summary: Petitioner requested a hearing for withdrawal of probation of her respiratory care practitioner license. She was granted a respiratory care practitioner license on probation with terms and conditions on May 12, 2010. Petitioner has completed all requirements regarding her probation. The State has no objections to the withdrawal of probation if the Committee agrees she has completed all terms of the probation. Petitioner entered into evidence Exhibit 1, 2 and 3; copies of the presentation she gave, a letter of completion of the presentations and an email from Ms. Morris to the Committee regarding the completion of the presentation. Petitioner is currently employed at Marion Hospital.

Committee action: A motion was made and seconded to grant Ms. Morris' petition for the withdrawal of probation.

KONKLE/PARK-TEELON

Motion carried 3-0-0

B. Richard S. Schlomer, R.C. P., License No. 30000946A

Administrative Cause No. 2004 RCC 0003

Re: Petition for Withdrawal of Probation

Parties and Counsel Present:

Petitioner was present without counsel

Michael Minglin, Deputy Attorney General for the State of Indiana

Carrie Roemer, Court Reporter

Participating Committee Members:

Mr. Konkle (Hearing Officer)

Ms. Park-Teelon
Mr. Smith

Case Summary: Petitioner requested a hearing for withdrawal of probation of his respiratory care practitioner license. Petitioner's license was placed on probation February 2004 after a complaint was filed by the Indiana Office of the Attorney General. The State reminded the Committee that on February 16, 2004, they placed Petitioner's license on indefinite probation with terms and conditions, on April 20, 2004 the Committee issued a Notice of Proposed Default, on August 18, 2004 the Committee placed Petitioner's license on indefinite suspension, on July 20, 2007 the Committee reinstated Petitioner's license on probation with terms and conditions, and on May 16, 2008 the Committee issued an Order to Show Cause. Petitioner feels he has met all the requirements of his probation. He indicated to the Committee he is actively employed and active in his church as well as other programs. Petitioner called Janet Sievers as witness. Ms. Sievers attested to the fact that he is a very skilled and competent respiratory therapist. The State had no objections to the withdrawal of probation.

Committee Action: A motion was made and seconded to grant Mr. Schlomer's petition for withdrawal of probation.

SMITH/PARK-TEELON
Motion carried 2-0-1
*Mr. Konkle abstained

C. Robert Michael Flanagan

Administrative Cause No. 2010 RCC 0002

Re: Petition for Review of Denial of Licensure

Parties and Counsel Present:

Petitioner was present without counsel

Michael Minglin, Deputy Attorney General for the State of Indiana

Carrie Roemer, Court Reporter

Participating Committee Members:

Mr. Konkle (Hearing Officer)

Ms. Park-Teelon

Mr. Smith

Case Summary: Petitioner requested a hearing for review of denial of licensure. Petitioner made application with the State of Indiana on June 8, 2009 for a respiratory care practitioner license. He was granted the requested temporary permit but was required to make a personal appearance due to a positive response on his application once his application was complete. Petitioner was scheduled to appear at the April 23, 2010 meeting where he

failed to be present. The Committee denied his application at that meeting. Petitioner explained to the Committee that he did not receive the notice for the appearance although the notice was sent to him electronically by Ms. Vaught on May 13, 2010. Petitioner was requested to appear regarding his "yes" response to question 5B on the application that asks "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" and to question 7 that asks "Have you ever been admonished, censured, reprimanded or requested to withdraw, resign or retire from any hospital or health care facility in which you have trained, held staff membership or privileges or acted as a consultant?" He explained that in 2004 he was charged with operating a vehicle while intoxicated and on October 14, 2009 he was terminated from Methodist Hospital for unsatisfactory work performance. Petitioner is 2010 graduate of Ivy Tech Community College of Lafayette and passed the NBRC examination on January 15, 2010.

Committee action: A motion was made and seconded to grant Mr. Flanagan's petition and issue a respiratory care practitioner license.

PARK-TEELON/SMITH
Motion carried 3-0-0

D. State of Indiana vs. Stephen Aponte, R.C.P., License No. 30004816A
Administrative Cause No. 2005 RCC 0014
Re: Order to Show Cause

Parties and Counsel Present:

Respondent was not present nor represented by counsel
Michael Minglin, Deputy Attorney General for the State of Indiana
Carrie Roemer, Court Reporter

Participating Committee Members:

Mr. Konkle (Hearing Officer)
Ms. Park-Teelon
Mr. Smith

Case Summary: An Order to Show Cause was issued by the Committee on June 16, 2010 for failure to comply with the terms of his probation. Respondent did not appear, as requested. The State requested that a Notice of Proposed Default and an emergency suspension of ninety (90) days be issued in this matter.

Committee action: A motion was made and seconded to suspend Mr. Aponte's respiratory care license for a period of ninety (90) days and to issue a Notice of Proposed Default.

KONKLE/PARK-TEELON
Motion carried 3-0-0

E. State of Indiana vs. Charles A. Hodges, R.C.P., License No. 30005450A
Administrative Cause No. 2004 RCC 0015
Re: Order to Show Cause

Parties and Counsel Present:

Respondent was present without counsel
Michael Minglin, Deputy Attorney General for the State of Indiana
Carrie Roemer, Court Reporter

Participating Committee Members:

Mr. Konkle (Hearing Officer)
Ms. Park-Teelon
Mr. Smith

Case Summary: An Order to Show Cause was issued by the Committee on June 16, 2010. Respondent has failed to comply with the terms and conditions of his probation order issued on November 8, 2006. Respondent has failed to comply with the probationary terms of November 8, 2006 in that; Respondent has not presented quarterly reports of attendance of attendance of weekly NA meetings for May, August and November 2009 and February and May 2010. Respondent stated he has been sending proof of attendance of his NA meeting to IPLA at the same fax number during his probation yet IPLA has never received the reports. Respondent entered into evidence Defense Exhibits 1, 2, 3, 4, and 5 which is a letter from Dr. Gaither and four (4) fax transaction reports including the reports on NA meetings. The Committee advised Respondent that he will not be able to come off of probation until there is some consistency in his reporting. The Committee is concerned that they always have to issue an order to show cause to get Respondent to comply with his probation order. Legal counsel advised the Committee can impose further sanctions against respondent.

Committee action: A motion was made and seconded that Mr. Hodges shall: continue on indefinite probation and may not petition for modification or withdrawal of probation for a period for one (1) year from the date of the order with the following terms and conditions:

1. The Respondent's Indiana respiratory care license shall continue on **INDEFINITE PROBATION**. Respondent may not petition for modification or withdrawal of probation for a period of one (1) year from the date of this Final Order and is subject to the following terms and conditions:

- a. Respondent shall continue to be under the same terms and conditions of probation imposed by this Committee in its order of

November 8, 2006. A true and accurate copy of the November 8, 2006 final order is attached hereto and incorporated herein by reference as if fully set forth herein.

b. In addition to the terms and conditions imposed in the November 8, 2006 final order incorporated herein, Respondent shall pay a **FINE** of **SEVEN HUNDRED FIFTY DOLLARS (\$750.00)** directly to this committee within sixty (60) days of his receipt of this order.

c. With regard to any written reports that Respondent is to file with the Committee, Respondent shall hand deliver or mail by certified mail, return receipt requested, such reports to the Committee in such a manner as to provide Respondent with a receipt confirming the Committee's receipt of same.

2. A violation of this final order or any non-compliance with the statutes and regulations regarding the practice of respiratory care may result in the State requesting the summary suspension of Respondent's license, an Order to Show Cause as may be issued by the Committee, or a new cause of action pursuant to Ind. Code § 25-1-9-4, any or all of which could lead to additional sanctions, up to and including a revocation of Respondent's license.

KONKLE/SMITH

Motion carried 2-0-1

*Ms. Park-Teelon abstained

F. State of Indiana vs. Mary L. Smith, R.C.P., License No. 30002833A

Administrative Cause No. 2007 RCC 0002

Re: Order to Show Cause

Parties and Counsel Present:

Respondent was present without counsel

Michael Minglin, Deputy Attorney General for the State of Indiana

Carrie Roemer, Court Reporter

Participating Committee Members:

Mr. Konkle (Hearing Officer)

Ms. Park-Teelon

Mr. Smith

Case Summary: Respondent's license was placed on indefinite probation on February 23, 2007 and could not request the withdrawal of probation for a period of two years. Respondent has failed to submit supervisory reports as required by her probation terms and conditions. She stated she thought her license would automatically come off probation after two years and that her supervisor did not have to continue with the reporting. The Committee explained that according to her order, she had to petition the Committee for a

hearing to have the probation withdrawn. Respondent entered into evidence Exhibits 1-4; letters from Respondents employer. The State object stating the letters appear to be the same letter printed four (4) times. The State's objection was noted; the Committee accepted the letters as evidence. The Committee advised Respondent that it is her responsibility to make sure the Committee is getting the supervisory reports and to not place the responsibility on her supervisor. The State maintains they feel she is not in compliance and the reports entered are not legitimate supervisor reports.

Committee action: A motion was made and seconded to keep Ms. Smith's respiratory care license on probation with the current terms and conditions.

KONKLE/SMITH
Motion carried 2-1-0
*Ms. Park-Teelon opposed

VI. NOTICE OF PROPOSED DEFAULT/DISMISSAL

There were no notices of proposed default before the Committee.

VII. VOLUNTARY SURRENDER OF LICENSE

There were no voluntary surrenders before the Committee.

VIII. SETTLEMENT AGREEMENTS

There were no settlement agreements before the Committee.

IX. OLD/NEW BUSINESS

There was no old/new business to discuss before the Committee.

X. DISCUSSION

A. Lori M. Tinkler, MBA, Associate Executive Director
National Board for Respiratory Care
Re: NBRC Admissions Policy Change Effective January 1, 2011

Ms. Tinkler stated that the NBRC admission police will change effective January 1, 2011. They will eliminate the current policy which allows individuals enrolled in an accredited respiratory care education program to apply for and attempt the certification examination for entry level respiratory therapist (CRT) 30 days prior to actual graduation. Examination results were held until the individual's graduation date is confirmed. Beginning January 1, 2011, students will need to provide proof of graduation when applying for the examination, either electronically via the Electronic Eligibility Database

(EED) or by submission of an official transcript or certificate of completion/graduation by the candidate.

XI. APPLICATION REVIEW

A. Endorsement

There were no endorsement applications for review.

B. Examination

There were no examination applications for review.

C. Credentials

There were no credential applications to review.

D. Temporary Permits

There were no temporary permits to review.

E. Student Permits

There were no student permits to review.

XII. PROBATIONARY REPORT

There were no probationary reports for review.

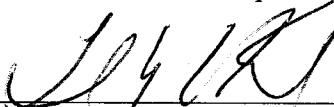
XIII. CONTINUING EDUCATION

There was no continuing education for review.

XIV. OTHER ITEMS FOR CONSIDERATION

XV. ADJOURNMENT

There being no further business, and having completed its duties, the meeting of the Indiana Respiratory Care Committee adjourned at 12:50 p.m.


Thomas Konkle, Chairman


Date